

2/23/92

MISSOURI

RIVER BASIN



FINAL ORDER

OF THE BOARD OF NATURAL RESOURCES AND CONSERVATION

ESTABLISHING WATER RESERVATIONS ABOVE FORT PECK DAM

JULY 1, 1992

BEFORE THE MONTANA BOARD OF NATURAL
RESOURCES AND CONSERVATION

* * * * *

IN THE MATTER OF WATER)
RESERVATION APPLICATION NOS.)
70115-41F 71895-41I 72578-41L)
70117-41H 71966-41S 72579-41T)
70118-41H 71997-41J 72580-41A)
70119-41H 71998-41S 72581-41I)
70270-41B 72153-41P 72582-41I)
71537-41P 72154-41K 72583-41P)
71688-41L 72155-41A 72584-41S)
71889-41Q 72256-41P 72585-41M)
71890-41K 72307-41Q 72586-41P)
71891-41P 72574-41O 72587-41G)
71892-41G 72575-41K 72588-40C)
71893-41K 72576-40E 73198-41I)
71893-41I 72577-41P 73199-41S)
IN THE UPPER MISSOURI RIVER)
BASIN)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
ORDER, AND MEMORANDUM

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MISSOURI RIVER BASIN WATER RESERVATIONS
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I. INTRODUCTION

This matter came regularly for hearing, beginning February 3, 1992, and continuing through February 28, 1992. The hearing was conducted by Peter T. Stanley, duly appointed as Hearing Examiner by the Board of Natural Resources and Conservation (Board). The following parties appeared by and through the counsel indicated:

J. B. Anderson, Jr.	Various Objectors (Upper Big Hole)
John Bloomquist	Whitetail Water Users and Various Objectors
Monte J. Boettger	City of Lewistown
Calvin Braaksma	City of Three Forks
Hugh Brown	Liberty County and Hill County Conservation Districts
Steve Brown and Stan Bradshaw	Trout Unlimited and American Fisheries Society
John Chaffin	U.S. Department of Interior, Bureau of Reclamation and Bureau of Land Management
Carl M. Davis	Various Objectors (Ruby, Beaverhead and Grasshopper Creek)
Ted Doney	Teton Water Users Assoc. and Various Objectors
Holly Franz and Susan Callaghan	Montana Power Company
W. G. Gilbert, III	Various Objectors (Lower Big Hole)
David Gliko	City of Great Falls
Mark Guenther	Lower Jefferson Canal
Max Hansen	Various Objectors
James Hubble	William E. Reichelt

Mona Jamison and Bob Thompson	Montana Department of Health and Environmental Sciences
Robert Lane and Curtis Larsen	Department of Fish, Wildlife and Parks
Peter S. Lineberger	Town of West Yellowstone
Donald Marble	Town of Chester
Dale Reagor	City of East Helena
William A. Schreiber	City of Belgrade
Dale Schwanke	Pondera County Canal and Reservoir Company
Paul Smith	Various Objectors (Boulder)
Gary Spaeth	Various Conservation Districts Applicants and Montana Association of Conservation Districts
Keith Strong	Greenfields Irrigation District
Loren Tucker	Various Objectors (Mill Creek and Wisconsin Creek)
Cindy Younkin, Perry Moore, and Russ McElyea	Upper Musselshell Users Association, City of Bozeman and Various Objectors
Also appearing was:	
Mike Franich	Fish Creek Ditch Co.

In addition to the formal hearing held in Helena, the Hearing Examiner held informal hearings in Lewistown, Great Falls, Bozeman, Dillon and Glasgow. Persons who gave testimony, under oath, at the public hearing are considered parties for a limited purpose in this proceeding.

The Hearing Examiner accepted into the record prefiled, written testimony of the parties, sworn testimony presented at the hearing and certain documentary evidence. The Hearing Examiner submitted a Proposal for Decision to the Board on May 15, 1992. On June 16 and 17, 1992, the Board heard oral argument on Exceptions to the Proposal for Decision. The Board, having fully considered

such evidence and the arguments of the parties, makes the following Findings of Fact, Conclusions of Law, and Order. Any party's proposed Findings of Fact, Conclusions of Law or Orders, or Exceptions not specifically adopted herein are rejected by the Board as not being supported by the evidence or the law.

Application of City of Belgrade
Water Reservation No. 70119-41H

II. FINDINGS OF FACT

A. FINDINGS ON THE QUALIFICATION OF THE CITY OF BELGRADE TO RESERVE WATER (Mont. Code Ann. § 85-2-316(1)(1991); ARM 36.16.107B(1)(a).)

1. The City of Belgrade is an incorporated municipality and a subdivision of the State of Montana. (Bd. Exh. 3-A, p. 2; Mont. Code Ann. § 85-2-316(1), ARM 36.16.107B(1)(a).)

2. The City of Belgrade has applied for a water reservation of 645 acre-feet/year (af/yr) of water with a maximum diversion rate of 3.56 cubic feet/second (cfs), from groundwater wells drawing from the Gallatin Valley aquifer to be located within the City of Belgrade for year round use. (Bd. Exh. 3-A, pp. 2, 14, and 25.)

3. The City of Belgrade requested a water reservation to meet future demands by municipal users. (Bd. Exh. 3-A, p. 5.)

B. FINDINGS ON THE PURPOSE OF THE WATER RESERVATION APPLIED FOR BY THE CITY OF BELGRADE (Mont. Code Ann. § 85-2-316(4)(a)(1991); ARM 36.16.107B(1)(b)).

4. The City of Belgrade seeks to provide municipal water for future growth in a cost-effective manner. Sound planning requires providing users with an adequate water supply. The term of the water reservation is to year 2025. (Bd. Exh. 3-A, p. 2.)

5. The purpose of the reservation is to provide the water for municipal uses. (Bd. Exh. 3-A, p. 3.) Municipal uses are beneficial uses of water in Montana. (Mont. Code Ann. § 85-2-102(2)(a), ARM 36.16.102(3); ARM 36.16.107B(1)(b).)

C. FINDINGS ON THE NEED FOR THE WATER RESERVATION APPLIED FOR BY THE CITY OF BELGRADE (Mont. Code Ann. § 85-2-316(4)(a)(ii)(1991); ARM 36.16.107B(2)).

6. The City of Belgrade's three existing groundwater wells presently provide up to 7.58 cfs of water to the City of Belgrade. (Bd. Exh. 3-C, p. 2.) The reservation water requested would be delivered through the existing water supply system. (Bd. Exh. 3-A, p. 4.)

7. A reservation is the only means to obtain an early priority date for water that will be needed to meet projected municipal growth. In the future, water may be appropriated by